

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Interim Suspension Order
Against:

AARON S. TSUDA, P.T.A.
15 Sage River Circle
Sacramento, CA 95831
Physical Therapist Assistant License No. AT
8827

Respondent.

Case No. 1D-2012-71660

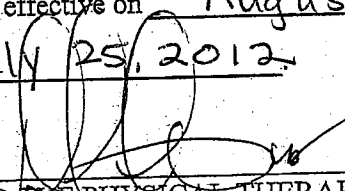
OAH No. 2012040968

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 24, 2012

It is so ORDERED July 25, 2012



FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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8
9 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **AARON S. TSUDA, P.T.A.**
13 **15 Sage River Circle**
Sacramento, CA 95831

14 **Physical Therapist Assistant License No. AT**
15 **8827**

16 Respondent.

Case No. 1D-2012-71660

OAH No. 2012040968

STIPULATED SURRENDER OF
LICENSE AND ORDER

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Rebecca Marco (Complainant) is the Executive Officer of the Physical Therapy
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Michelle L.
24 Angus, Deputy Attorney General.

25 2. Aaron S. Tsuda, P.T.A. (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

27 3. On or about August 29, 2008, the Physical Therapy Board of California issued
28 Physical Therapist Assistant License No. AT 8827 to Aaron S. Tsuda, P.T.A. (Respondent). The

1 Physical Therapist Assistant License was in full force and effect at all times relevant to the
2 charges brought in the Accusation and will expire on January 31, 2014, unless renewed. On
3 March 14, 2012, an Interim Suspension Order was issued pursuant to Government Code section
4 11529, prohibiting Respondent from practicing his profession as a physical therapist assistant.

5 JURISDICTION

6 4. Accusation No. 1D-2012-71660 was filed before the Physical Therapy Board of
7 California (Board), Department of Consumer Affairs, and is currently pending against
8 Respondent. The Accusation and all other statutorily required documents were properly served
9 on Respondent on April 11, 2012. Respondent timely filed his Notice of Defense contesting the
10 Accusation. A copy of Accusation No. 1D-2012-71660 is attached as Exhibit A and incorporated
11 by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 1D-2012-71660. Respondent also has carefully read, and understands the effects
15 of this Stipulated Surrender of License and Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
20 the attendance of witnesses and the production of documents; the right to reconsideration and
21 court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 1D-2012-71660, agrees that cause exists for discipline, and hereby surrenders his Physical
28 Therapist Assistant License No. AT 8827 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physical Therapist Assistant License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physical Therapist Assistant License No. AT 8827, issued to Respondent Aaron S. Tsuda, P.T.A., is surrendered and accepted by the Physical Therapy Board of California.

1. The surrender of Respondent's Physical Therapist Assistant License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Physical Therapy Board of California.

1 2. Respondent shall lose all rights and privileges as a physical therapist assistant in
2 California as of the effective date of the Board's Decision and Order.

3 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 4. Respondent shall notify all employers of the reason for the ordered license surrender.
6 Within ten (10) days of the effective date of this Decision, Respondent shall provide a true copy
7 of the Accusation and Decision and Order to all employers. Respondent shall provide to the
8 Physical Therapy Board of California written confirmation from all employers of receipt of a true
9 copy of the Accusation and Decision and Order against Respondent.

10 5. The Board agrees that if good cause exists for Respondent to apply for licensure after
11 two years, as allowed under Business and Profession Code section 2661.7. If Respondent ever
12 files an application for licensure or a petition for reinstatement in the State of California, the
13 Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws,
14 regulations and procedures for reinstatement of a revoked license in effect at the time the petition
15 is filed, and all of the charges and allegations contained in Accusation No. 1D-2012-71660 shall
16 be deemed to be true, correct and admitted by Respondent when the Board determines whether to
17 grant or deny the petition.

18 6. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation No. 1D-2012-71660 shall be
21 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

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DATED:



ENDORSEMENT

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California

GAIL M. HEPPELL
Supervising Deputy Attorney General

MICHELLE L. ANGUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1D-2012-71660

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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA April 11, 2012
BY C. Sacramento ANALYST

8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **AARON S. TSUDA, P.T.A.**
13 15 Sage River Circle
Sacramento, CA 95831

14 Physical Therapist Assistant License
15 No. AT 8827

16 Respondent.

Case No. 1D-2012-71660

OAH No. 2012030462

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

19 1. Rebecca Marco (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Physical Therapy Board of California, Department of Consumer
21 Affairs.

22 2. On August 29, 2008, the Physical Therapy Board of California issued Physical
23 Therapist Assistant License Number AT 8827 to Aaron Seiichi Tsuda (Respondent). Said license
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 January 31, 2014, unless renewed. On March 14, 2012, an Interim Suspension Order was issued
26 pursuant to Government Code section 11529, prohibiting Respondent from practicing his
27 profession as physical therapist assistant.

28 ///

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Code section 490 provides, in pertinent part, that the board may suspend or revoke a license on the ground that the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the profession for which the license was issued.

5. Code section 2609 states that the Board shall issue, suspend, revoke licenses and approvals to practice physical therapy as provided in this chapter.

6. Code section 2660 provides, in pertinent part, that the board may take action against any licensee for unprofessional conduct, including, but not limited to, conduct delineated in this section.

7. Code section 2660(d) provides, in pertinent part, that conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist assistant is unprofessional conduct.

8. Code section 2660(f) provides that the addiction to or the excessive use of any habit-forming drug is unprofessional conduct.

9. Code section 2660(h) provides, in pertinent part, that the violation of or conviction of any of the provisions of this chapter or of the Medical Practice Act is unprofessional conduct.

10. Code section 2661 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilt, or dismissing the accusation, information, or indictment.

1 11. Section 1399.20 of Title 16 of the California Code of Regulations, in pertinent part,
2 provides that a crime shall be considered to be substantially related to the qualifications,
3 functions, or duties of a person holding a license under the Physical Therapy Practice Act if to a
4 substantial degree it evidences present or potential unfitness of a person to perform the functions
5 authorized by the license in a manner consistent with the public health, safety, or welfare.

6 12. Code section 2237 provides, in pertinent part, that the conviction of a charge of
7 violating any statute or regulation regulating dangerous drugs or controlled substances constitutes
8 unprofessional conduct, and the record of the conviction is conclusive evidence of such
9 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere is deemed to be a conviction within the meaning of this section.

11 13. Code section 2239 provides, in pertinent part, that use of any controlled substances,
12 dangerous drugs and/or alcoholic beverages, to the extent, or in such a manner as to be dangerous
13 or injurious to the licensee, or to any other person or to the public, or more than one misdemeanor
14 involving the use, consumption, or self-administration of any of the substances referred to in this
15 section, constitutes unprofessional conduct.

16 14. Code section 2661.5 provides:

17 (a) In any order issued in resolution of a disciplinary proceeding before the board,
18 the board may request the administrative law judge to direct any licensee found
19 guilty of unprofessional conduct to pay to the board a sum not to exceed the actual
and reasonable costs of the investigation and prosecution of the case.

20 (b) The costs to be assessed shall be fixed by the administrative law judge and
21 shall not in any event be increased by the board. When the board does not adopt a
22 proposed decision and remands the case to an administrative law judge, the
23 administrative law judge shall not increase the amount of the assessed costs
specified in the proposed decision.

24 (c) When the payment directed in an order for payment of costs is not made by the
25 licensee, the board may enforce the order of payment by bringing an action in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee directed to pay costs.

26 (d) In any judicial action for the recovery of costs, proof of the board's decision
27 shall be conclusive proof of the validity of the order of payment and the terms for
28 payment.

1 (e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate
2 the license or approval of any person who has failed to pay all of the costs ordered
under this section.

3 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally
4 renew or reinstate for a maximum of one year the license or approval of any
5 person who demonstrates financial hardship and who enters into a formal
agreement with the board to reimburse the board within that one year period for
those unpaid costs.

6 (f) All costs recovered under this section shall be deposited in the Physical
7 Therapy Fund as a reimbursement in either the fiscal year in which the costs are
8 actually recovered or the previous fiscal year, as the board may direct.

9 DRUGS

10 15. Under Health and Safety Code section 11054(c), heroin is a Schedule I controlled
11 substance. Schedule I substances have a high potential for abuse, have no currently accepted
12 medical use in treatment in the United States, and there is a lack of accepted safety for use of the
13 drug under medical supervision. Under Health and Safety Code section 11350, every person who
possesses heroin has committed a crime.

14 FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Conviction of Crime)

15 [Bus. & Prof. Code §§ 490, 2660(d), 2661; Cal. Code Regs., tit. 16, § 1399.20, subd (b)]

16 16. Respondent is subject to disciplinary action under Code sections 490, 2660(d), 2661,
17 and California Code of Regulations, title 16, section 1399.20, subdivision (b) in that he was
18 convicted of a crime, possession of heroin. The circumstances are as follows:

19 17. On January 11, 2012, Respondent was driving westbound on Martin Luther King Jr.
20 Boulevard at a speed in excess of the posted speed limit when he passed an unmarked police
21 vehicle occupied by a police officer and probation officer. After accelerating to catch up with
22 Respondent's vehicle, the officers observed Respondent, who had his right hand on the steering
23 wheel with a needle in his right arm and was injecting himself with his left hand. The officers
24 further observed Respondent to have a belt around his upper right arm, being used as a tourniquet
25 to facilitate the injection.

26 18. The police officer then conducted a traffic stop, during which Respondent denied
27 experiencing a medical emergency and admitted to injecting himself with heroin that he had just
28

1 purchased while rushing to his physical therapist assistant job. Respondent then proceeded to
2 produce the hypodermic needle that he had used for injecting himself with heroin.

3 19. The police officer then arrested Respondent and conducted a search of Respondent
4 and Respondent's vehicle. The search yielded .66 grams of heroin that was located in
5 Respondent's front pants pocket, as well as a heroin drug kit that was located on the passenger
6 floorboard.

7 20. After Respondent was read his Miranda rights and stated his understanding of his
8 rights, Respondent told the police officer that he uses heroin every day and that he is addicted to
9 heroin. Respondent further explained that he had been using for a few years, having started out
10 with prescription medications and working his way up to heroin.

11 21. On January 13, 2012, Felony Complaint Number 12F00362 was filed against
12 Respondent in Sacramento Superior Court for possession of heroin in violation of Health &
13 Safety Code section 11350(a). On February 1, 2012, Respondent pled nolo contendere to a felony
14 for violating Health and Safety Code section 11350(a). Respondent was then sentenced to
15 complete a drug diversion program and 18-36 months probation.

16 22. Respondent's conduct, as set forth in paragraphs 16-21 above, constitutes
17 unprofessional conduct in violation of Code sections 490, 2660(d), 2661, and Title 16 of the
18 California Code of Regulations section 1399.20(b).

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct/Excessive Use of Habit Forming Drug)
21 [Bus. & Prof. Code §§ 490, 2660(f), 2660(h), 2237, and 2239]

22 23. Petitioner realleges paragraphs 16 through 21 as if fully set forth herein.

23 24. Respondent states that he has abused prescription drugs and used heroin over the last
24 several years on a regular and daily basis. Respondent further states that he is addicted to heroin.
25 Respondent has engaged in an extensive pattern of abuse and use of controlled substances.

26 25. Respondent's conduct, as set forth in paragraphs 16-21 and 24 above, constitutes
27 unprofessional conduct in violation of Code sections 2660(f) and (h), 2237, and 2239.

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist Assistant's license Number AT 8827, issued to Aaron Seiichi Tsuda, P.T.A.;

2. Ordering Aaron Seiichi Tsuda, P.T.A., to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5; and

3. Taking such other and further action as deemed necessary and proper.

Dated: April 11, 2012


REBECCA MARCO
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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